



HOWARD COUNTY PUBLIC WORKS BOARD

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James M. Irvin, Executive Secretary
Chaunta Taylor, Recording Secretary

Lisa S. Spitulnik, Chairperson
John D. Rhoad, Jr., Vice Chairperson
Abby Glassberg, Member
Shahid Qureshi, Member
Cory J. Summerson, Member

Minutes of the Howard County Public Works Board – Tuesday, October 14, 2014

Members present: Ms. Lisa S. Spitulnik, Mr. John Rhoad, Jr., Mr. Cory J. Summerson, and Ms. Abby Glassberg

Staff present: James M. Irvin, Executive Secretary; John Seefried, Chief, Construction Inspection Division; Melanie A. Bishop, Real Estate Services Division; and Chaunta Taylor, Recording Secretary, Department of Public Works.

Ms. Lisa Spitulnik, Chairman, called the meeting to order at approximately 7:29 p.m.

1. **Approval of minutes:** Ms. Spitulnik indicated that the first item on the agenda is the approval of the minutes of September 9, 2014. Ms. Spitulnik asked if there were any comments or questions.

Motion: On a motion made by Mr. Summerson and seconded by Ms. Glassberg, the Board unanimously approved the minutes of September 9, 2014.

2. **Public Works Board Road Acceptance**

- (a) **Subdivision:** Oxford Square "Green Neighborhood" Parcels 'C' thru 'L' and Open Space Lots 1 and 2 (A Resubdivision of Parcel 'A', as Shown on Plats Entitled "Oxford Square, Parcels 'A' and 'B'" and Recorded Among the Land Records of Howard County, Maryland as Plats Nos. 21757 thru 21761)
R/SW Agreement No. F-12-026 **W&S Agreement No.** 14-4726-D
Road Names: Saint Margarets Boulevard and Banbury Drive
Petitioner: Kellogg-CCP, LLC

Staff Presentation: Ms. Melanie Bishop, Real Estate Services Division, indicated that Kellogg-CCP, LLC, has presented a petition to the Director of Public Works for the acceptance in fee simple title to Saint Margarets Boulevard and Banbury Drive, located in Oxford Square "Green Neighborhood" Parcels 'C' thru 'L' and Open Space Lots 1 and 2 (A Resubdivision of Parcel 'A', as Shown on Plats Entitled "Oxford Square, Parcels 'A' and 'B'" and Recorded Among the Land Records of Howard County, Maryland as Plats Nos. 21727 thru 21761). The Bureau of Engineering has inspected the subdivision and certifies that all public improvements have been constructed in accordance with the approved plans and specifications and meets the criteria for acceptance under Section 18.202 of the Howard County Code. The Bureau of Engineering recommends that the public improvements be accepted into the County's system of publicly owned and maintained facilities.

Board Comments: None.

Public Testimony: None.

Staff Presentation: Mr. John Seefried, Chief, Construction Inspections Division, indicated that the Taylor Subdivision as a result of the October meeting, Mr. Seefried was asked to meet with the concerned property owners and explore possible alternatives to alleviate the drainage issue affecting the private use-in-common road. Mr. Seefried stated that he visited the site in September 2014 during a rain event, and then met with the property owners the first week of October 2014. During the rain event, Mr. Seefried did not observe an issue where the run-off water was ponding. The meeting with the property owners also included the developer and the contractor however, the meeting did not produce any feasible solution to correct the road drainage issue.

One issue that was brought to Mr. Seefried's attention during the meeting with the property owners, which had disclosed in any prior conversations, was that this is a "little bit of a lip" in the T-turnaround of the public road. Mr. Seefried advised that although this is not a safety issue, the County has made arrangements to correct the issue.

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Board Comments: Mr. Rhoad thanked Mr. Seefried for making the effort to reconcile this issue for the residents even though it is outside of the County's jurisdiction.

Public Testimony: Mr. Brian Balchunas, 10930 White Dahlia Drive, Woodstock, Maryland 21163, thanked the County for all of its efforts in trying to reconcile the drainage issue with the property owners. Mr. Balchunas reiterated that the property owners along the private portion of White Dahlia Drive are concerned that the slope of the street was not graded according to the Site Development Plans ("SDP"), and results in a road that is fairly flat. In turn, this creates a poor drainage of run-off water and is considered a safety hazard, especially in freezing temperatures. Mr. Balchunas distributed as-built drawings that were drafted by a surveyor and shows that the slope is not a 3% grade, as required by the SDP. Mr. Balchunas stated the slope at the beginning of the drive is not affected; however, the drainage issue appears to start in front of 10926 White Dahlia Drive, which is immediately next to Mr. Balchunas's property. Once the run-off water reaches the front of his property, 10930 White Dahlia Drive, the road is essentially flat, and the water that is captured by the swales, ponds.

Mr. Balchunas stated that he was present during the October 2014 meeting with Mr. Seefried, Mr. Patrick Costello, who represents the developer, the concerned property owners, and the contractor who paved the private portion of White Dahlia Drive. Mr. Balchunas pointed out that according to the SDP that was signed by the County, the road was to be constructed with tar and chip and instead was constructed with bituminous. Mr. Balchunas stated that bituminous was also used throughout the neighborhood. Mr. Balchunas stated that if the residents did make a request for the existing road to be removed and corrected, and if the developer agreed, bituminous is preferred by the property owners. Mr. Balchunas also indicated that the neighborhood would entertain receiving a monetary settlement and assume the responsibility of removing and repaving the road, or paying for the bituminous material to be constructed over the existing tar and chip road.

Mr. Balchunas commented that he did not see any willingness by "the other side" to reach a resolution and correct the issue. The facts, according to Mr. Balchunas, include 1) the SDP was signed by the County and required a 3% slope to prevent issues that are present on this particular section of White Dahlia Drive; 2) the lack of the proper slope creates a safety hazard for pedestrians, especially during colder temperatures; 3) the ponding water creates a premature failure of the road that the property owners are responsible for maintaining; 4) the SDP required tar and chip material for the roadway and bituminous material was used; 5) the SDP required road material to be sufficient to handle all weather use; and 6) the estimated cost to remove the existing road, correct the slope issue, and replace the road is approximately \$20K (note: this estimate is merely Mr. Balchunas's approximation; at the time of this public works board meeting, no actual estimates or bids were available or submitted to the County.) Mr. Balchunas asked who is ultimately responsible for making sure the road is constructed according to the SDP that was signed by the County and the developer.

Mr. Joseph Manavacan, 10926 White Dahlia Drive, Woodstock, Maryland 21163, offered testimony in support of Mr. Balchunas's claims. Mr. Manavacan expressed the need for the road to be constructed according to the SDP that was approved and signed by the County.

Mr. Patrick Costello, 3230 Bethany Lane, Ellicott City, Maryland 21042, testified on behalf of the developer and described how the drainage flows from higher elevation to lower elevation. In addition, Mr. Costello explained that during construction there is a defined area where the construction has to be contained ("LOD"). In constructing the portion of White Dahlia Drive that is at issue, the developer had approximately two-to-three feet from the edge of the road where the developer could work. Mr. Costello states that while working in the LOD, it is not possible to construct the road with a 3% grade. Mr. Costello also added that the road as shown on the SDP was designed with the intention of constructing it with the 3% slope.

Mr. Lisa Spitulnik asked Mr. Costello the developer, if removing the road is an option. Mr. Costello stated that he does not disagree with the present issue; it does appear that the surface water is not flowing as it should.

Mr. Rhoad noted that the grades appear to "fall away", and that the difference in the grade appears significant. In addition, Mr. Rhoad asked, if the developer knew that it could not construct the road with a 3% grade and/or knew of the LOD, why did the developer not resolve the issue prior to construction. Mr. Rhoad commented that all parties acknowledge the issue, but that he has not heard a proposed solution. In this case, Mr. Rhoad asked what is the County's responsibility.

Ms. Spitulnik asked about the County's enforcement policy if construction does not adhere to the plans, or if something is not constructed at all. Mr. Seefried advised that there is a bond, but that the bond does not call out private roads specifically. In addition, there is a 20-point survey that is done, and the tolerance allows a variance up to one foot of the proposed grade.

Mr. Rhoad asked who controls the open space. Mr. Irvin responded that this particular open space is owned by the County. Mr. Seefried added that he had thought the open space could be a part of the solution; however, it appears that the water is draining, albeit slowly, and is not ponding. Mr. Seefried stated that the only resolution that the property owners will accede to is correcting the slope to a 3% grade. This process would be an involved process that would include adjusting the pavement and matching it to each property owners' driveway. The construction could be completed on-site; the need to utilize the open space would be extinguished.

Mr. Rhoad stated that it is disheartening that the parties have not reached a solution, but also expressed that this issue is outside of the Board's authority. Ms. Spitulnik added that the private portion of the road that is currently at issue does not have any impact on the public portion that is being dedicated to the County.

Mr. Rhoad asked Mr. Seefried if his department would be reviewing the SDP and/or the bond for a possible remedy, or to see if there is any flexibility would allow the County to resolve the issue with the drainage. Mr. Seefried replied that he was not aware of any leverage that his office had in order to affect a solution. Mr. Rhoad asked if there was any other department within the County that could offer assistance. Mr. Irvin asked if the property owners would be willing to share in the cost of hiring their own contractor to remove and reconstruct the road.

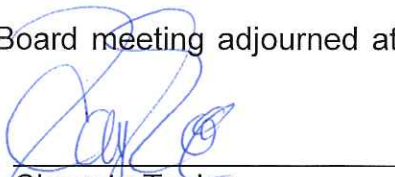
Ms. Spitulnik asked if there was a solution. Mr. Seefried responded that there is a clear physical solution: start on the low side of the road, remove about four to six feet, bring the topsoil to the edge of the existing driveway so that the water does not catch and pond and cause additional damage. Ms. Spitulnik asked if this could be done without having to remove the road. Mr. Seefried advised that the road would still need to be removed, but that instead of replacing the road with bituminous, the road would be constructed with tar and chip. Ms. Spitulnik asked if the solution would be for the property owners to pay the difference in cost between bituminous and tar and chip. Mr. Balchunas added that having the water drain to the swale and off the road is a better option. Mr. Balchunas also responded to Mr. Irvin's suggestion about having the property owners share the cost of fixing the road by saying that he has been polling the owners. In his discussions with the owners, Mr. Balchunas found that if out of pocket costs were necessary, the owners would entertain the idea upon subsequent discussions.

Mr. Costello added that the paving contractor has been out and completed remedial work regarding the lip in the road at the T-turnaround.

Motion: On a motion made by Mr. Summerson and seconded by Mr. Rhoad the Board unanimously recommended that the Director of Public Works accept the public improvements located in Taylor Farm, Section Three, Phase Two, Lots 57-97; Open Space Lots 98-101 and Non-Buildable Bulk Parcel 'A', A Resubdivision of Lot 54 of Taylor Farm Section Three Phase One (Plat No. 19603-19607) and Lot 2 of Friendly Farms Plat No. 9220-9221, into the County's system of publicly owned and maintained facilities. Mr. Rhoad expressed his dismay that a resolution had not been achieved and he encourages that the parties work together to find an amicable solution.

There being no further business, the Public Works Board meeting adjourned at approximately 8:04 p.m.


James M. Irvin
Executive Secretary 1/5/15


Chaunta Taylor
Recording Secretary